

November 21, 2014

Dear Acting Deputy Administrator Stan Meiberg, and Acting Assistant Administrator for Water Ken Kopocis,

We appreciate the time you took to meet with some of us recently regarding mountaintop removal coal mining. We recognize that it is difficult to accomplish much in a thirty minute meeting, and we look forward to an ongoing conversation about how we can work together to stop this destructive form of coal mining.

We also appreciate the actions the Environmental Protection Agency took in the initial years of this Administration to limit the devastating impacts of mountaintop removal in Appalachia: it held frank and open discussions with us, vetoed the Spruce permit, developed the conductivity benchmark, and objected to 402 permits throughout Appalachia, while assuring us that it would take action, based on the clear science, to put rules in place to address conductivity pollution.

However, when EPA approved Kentucky's selenium water quality standard this past summer, it weakened the protections for our region's waters. We ask that you ensure that the Clean Water Act is properly applied to large scale surface coal mines in Appalachia for the health and wellbeing of communities living in the shadows of these mines.

EPA's science shows the impacts of large scale surface mining on our streams and rivers, including the fact that nearly all surface mines in Appalachia discharge unacceptably high levels of conductivity pollution. EPA's benchmark for conductivity pollution related to mining in Appalachia established an unambiguous threshold for conductivity discharges. Yet state regulators have actively resisted taking any action to address conductivity pollution, and EPA has not prevented the issuance of new permits to coal mines that are virtually guaranteed to exceed the benchmark. The citizens of Appalachia need EPA's support when their local and state officials fail to uphold their legal obligations to control the pollution from mountaintop removal. Ending the destructive practice of mountaintop removal coal mining is a high priority for our groups and we ask that it also be a high priority for the EPA.

During our recent meeting we asked EPA to take the following concrete and achievable actions to move towards protecting communities and the environment in Appalachia:

- Promulgate a water quality standard to limit conductivity in the Appalachian states of Alabama, Kentucky, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia;
- Develop Total Maximum Daily Loads for biologically impaired streams in the Appalachia states, where that impairment is caused by ionic stress or toxicity and where the states have refused to take appropriate action;
- Disapprove any proposal by the State of West Virginia to modify its NPDES program to eliminate the existing regulation that requires that each NPDES permit include a condition prohibiting violations of water quality standards; and

- Closely review, and where necessary object to, state-issued NPDES permits for mountaintop removal mine discharges.

These actions would go a long way toward addressing the pollution caused by mountaintop removal mining and are well within the established EPA authority.

In June 2009 and March 2010, several of our groups sent petitions asking EPA to take over West Virginia's and Kentucky's Clean Water Act programs. Those petitions, as well as supplements later submitted, identified significant failures of the West Virginia and Kentucky state agencies to protect their waterways, aquatic environments and citizens from harmful mining pollution. These petitions have gone unanswered.

In response to those unanswered petitions and EPA's lessening leadership role in stopping this destructive practice, several of the undersigned groups are preparing litigation to file against the Agency to compel enforcement of the Clean Water Act. Until now, we have been reluctant to take such action. However, we strongly feel the need to move forward with these actions because we are losing our waters and mountains to mining pollution every day.

Your staff has been open and helpful in discussing our concerns in detail. We need EPA to stand with our communities and act to end mountaintop removal. We believe the science and the Clean Water Act give you the authority to step in and save what is left of our rivers and streams.

As always, we are more than willing to keep this dialog open. We will be reaching out on the asks listed in this letter and hope to continue our work together in protecting the waterways and communities in Appalachia. We cannot continue on the present course of inaction in the face of overwhelming evidence that mountaintop removal mining causes serious harm to our environment and our communities.

Sincerely,

The Alliance for Appalachia and its member groups  
Appalachian Mountain Advocates  
Defenders of Wildlife  
Earthjustice  
Kentucky Waterways Alliance  
Natural Resources Defense Council  
Public Justice  
Sierra Club  
Tennessee Clean Water Network